

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

RYAN R.,

Claimant,

vs.

INLAND REGIONAL CENTER,

Service Agency.

OAH No. L 2006120471

**DECISION**

Gary Brozio, Administrative Law Judge, Office of Administrative Hearings, heard this matter in San Bernardino, California, on January 17, 2007.

Vince Toms, Senior Consumer Services Representative, represented the Inland Regional Center.

Ryan R., claimant, was present throughout the fair hearing and was represented by his legal guardian, Jenetta T.

The matter was submitted on January 17, 2007.

**ISSUE**

Whether Ryan is entitled to reimbursement for the respite and social/recreational services his guardian paid for from August 2005 through August 2006?

## FACTUAL FINDINGS

### *Background*

1. Ryan is a regional center consumer with a diagnosis of mental retardation and cerebral palsy. He is 17 years old. Ryan recently graduated from high school and plans to study computers at a community college. He was present at the hearing and was a delightful young man.

2. Ryan is under a conservatorship. Jenetta T. is his guardian. In the spring of 2005, Ryan moved from the catchment area of Westside Regional Center (WRC) to the catchment area of Inland Regional Center (IRC). The regional centers failed to ensure a smooth transition of services and supports, which resulted in a large gap in the provision of Ryan's services. Ryan's guardian continued those services and paid for them without IRC's authorization, for which she now seeks reimbursement.

### *Legal Authority Regarding Transfers*

3. In 1997, the Legislature amended Welfare and Institutions Code section 4643.5, to add subdivision (c). That subdivision provides:

“Whenever a consumer transfers from one regional center catchment area to another, the level and types of services and supports specified in the consumer's individual program plan shall be authorized and secured, if available, pending the development of a new individual program plan for the consumer. If these services and supports do not exist, the regional center shall convene a meeting to develop a new individual program plan within 30 days. Prior to approval of the new individual program plan, the regional center shall provide alternative services and supports that best meet the individual program plan objectives in the least restrictive setting. *The department shall develop guidelines that describe the responsibilities of regional centers in ensuring a smooth transition of services and supports from one regional center to another, including, but not limited to, pretransferring planning and a dispute resolution process to resolve disagreements between regional centers regarding their responsibilities related to the transfer of case management services.*” (Emphasis added.)

4. On December 4, 1998, the Department of Developmental Services promulgated a set of Inter-Regional Center Consumer Transfer Guidelines (the Guidelines). As relevant here, the Guidelines require:

- The sending and receiving regional center to communicate and coordinate the move with vendors and the consumer and his family;
- The sending regional center to contact the receiving regional center and set up a meeting or telephonic conference to discuss transition services and supports during and after the move, and to ensure clarity about who will be responsible

for which transfer activities, what the specifics of the responsibility are, and when the activities will take place;

- The Chief Counselors to coordinate transfers because of the importance of this responsibility;
- The provision of services to the consumer or his family pending the administrative transfer of the case;
- The sending regional center to retain case management and fiscal responsibility until the receiving regional center has assigned a new service coordinator, a new IPP is in place, and the consumer is receiving the services and supports listed in the IPP;
- The sending and receiving regional centers to make their best efforts to ensure that services and supports are provided with no gaps.

#### *Ryan's Transfer*

5. WRC and IRC met none of the essential requirements set forth in the Guidelines. In December 2004, Ryan's guardian informed WRC that the family was going to move from Inglewood to Moreno Valley. In April 2005, the family moved. The regional centers failed to plan for the transition, even though Ryan's March 2005 IPP plainly stated that Ryan was moving to Riverside County in the summer of 2005.

6. As nearly as can be determined, WRC informed IRC of the transfer in October 2005. The transfer document provided IRC with Ryan's new address and telephone number. WRC asked IRC to assume management and fiscal responsibility for Ryan on November 1, 2005. IRC did so, but again there was no coordination between the regional centers to prevent gaps in services and supports.

7. A series of unfortunate events occurred after November 1, 2005. For the issue at hand, three salient facts emerged from the evidence: (1) Ryan's March 2005 IPP from WRC and his March 2006 IPP from IRC stated that he was entitled to receive respite and social/recreational services; (2) WRC stopped providing services to Ryan sometime in the summer of 2005; and (3) Ryan has not received any services from IRC.

#### *The Guardian's Expenditure for Services*

8. Ryan's guardian paid for services out of her own pocket. She introduced a ledger of her expenses from August 2005 through August 2006. (Exh. 22.) The expenditures appeared entirely appropriate and there was no evidence to the contrary. The total amount was \$3,175.

## *Evaluation*

9. IRC was not aware of the Guidelines and did not comply with them.<sup>1</sup> Although WRC was not represented at the hearing, there is little doubt that WRC also failed to comply with their obligations under the Guidelines. The Guidelines were not meant to be strict procedural rules, but, without any doubt, their intent was to ensure smooth transitions for consumers from one regional center to another. Regional centers may accomplish this goal through various means, but they nevertheless must accomplish it. The Legislature and DDS placed the responsibility for a smooth transition squarely upon the shoulders of regional centers, not consumers. The regional centers must make “best efforts” to ensure that there are “no gaps or delays” in providing consumers with services and supports.

10. IRC’s primary argument was that IRC could not reimburse Ryan’s conservator for respite and social/recreational services she paid for because the services were not “authorized” as required by Welfare and Institutions Code section 4643.5 and California Code of Regulations, title 20, section 50612. Under the Guidelines, WRC was required to continue services until IRC obtained authorization. The regional centers were supposed to ensure that there were no gaps in services so that the responsibility for securing authorization was with WRC and IRC, not the consumer or the consumer’s guardian.

11. IRC’s secondary argument was that it should not be responsible for reimbursements before IRC accepted responsibility for the case on November 1, 2005, and that IRC should not be responsible for “gaps” in service caused by Ryan’s guardian. Again, it was the responsibility of WRC and IRC to ensure a smooth transition without gaps in services. The unfortunate events after November 1, 2005, would never have happened if the regional centers had fulfilled their obligations under the Guidelines.

12. IRC may not be responsible for reimbursing the entire \$3,175 because the evidence strongly suggested that WRC also failed to meet its obligations under the Guidelines. But WRC was not at the hearing and it did not have the opportunity to present evidence. What is crystal clear, however, is that the consumer should not have to engage in a legal battle to determine what portion of the reimbursement should be paid by IRC and what portion should be paid by WRC. At this juncture, the consumer has been without services for nearly two years. The primary concern must be immediate reimbursement and full restoration of services.

13. IRC must make full reimbursement forthwith, after which it may address and resolve the question of apportionment with WRC. It is strongly recommended that IRC and WRC split these costs in half. If IRC and WRC cannot agree to a settlement, the Guidelines set forth a procedure to resolve the dispute.

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<sup>1</sup> IRC must be commended, however, for pursuing the ALJ’s request to find the Guidelines and for providing them at the hearing even though they were not helpful to IRC’s case.

## LEGAL CONCLUSIONS

1. The legal authorities contained in Factual Findings 3 and 4, and the conclusions about the Guidelines reached in paragraph 9, are incorporated into the Legal Conclusions. IRC had the burden to show, by a preponderance of the evidence, that it complied with Welfare and Institutions Code section 4643.5, subdivision (c), and that it had complied with the Department of Developmental Service's Guidelines for inter-regional center consumer transfers.

2. IRC failed to comply with the Guidelines. IRC and WRC were obligated to ensure a smooth transition with no gaps in services. They did not fulfill their duty. As explained in Factual Findings 5 through 13, IRC must reimburse claimant \$3,175 forthwith, and it may thereafter resolve the issue of apportionment with WRC.

## ORDER

IRC shall reimburse claimant the sum of \$3,175.

DATED: \_\_\_\_\_

\_\_\_\_\_  
GARY BROZIO  
Administrative Law Judge  
Office of Administrative Hearings

## NOTICE

This is the final administrative decision; both parties are bound by this decision. Either party may appeal this decision to a court of competent jurisdiction within 90 days.